Indiana Election Commission Minutes January 5, 2018

Members Present: Bryce H. Bennett, Jr., Chairman of the Indiana Election Commission ("Commission"); Brittany Solis, Proxy for S. Anthony Long, Vice Chairman of the Commission; Zachary E. Klutz, member; Suzannah Wilson Overholt.

Members Absent: S. Anthony Long, Vice-Chairman of the Commission.

Staff Attending: J. Bradley King, Co-Director of the Indiana Election Division of the Office of the Indiana Secretary of State (Election Division); Angela M. Nussmeyer, Co-Director of the Election Division; Matthew R. Kochevar, Co-General Counsel of the Election Division; Dale Simmons, Co-General Counsel of the Election Division; Abbey Taylor, Campaign Finance Division staff; Michelle Thompson, Campaign Finance Division staff.

Others Attending: The Honorable Bridgette Jarboe, Circuit Court Clerk of Dubois County; The Honorable Betty Postletheweight, Circuit Court Clerk of Posey County.

1. Call to Order:

The Chair called the January 5, 2018 meeting of the Commission to order at 1:30 p.m. EST in the offices of the Indiana Election Division, Room E-204, Indiana Government Center South 302 West Washington Street, Indianapolis, Indiana.

2. Transaction of Commission Business:

The Commission proceeded to transact the business set forth in the Transcript of Proceedings for this meeting prepared by Lisa Pierce of Connor Reporting.

This document is incorporated by reference into these minutes. The Commission adjourned this meeting at 3:18 p.m.

Respectfully submitted,

J. Bradley King

Co-Director

Angela M. Nussmey

Co-Director

APPROVED:

Bryce H. Bennett, Jr., Chairman

In the Matter Of:

INDIANA ELECTION COMMISSION HEARING

TRANSCRIPT OF HEARING January 05, 2018



CONNOR REPORTING

111 Monument Circle, Suite 4350 Indianapolis, IN 46204

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Toll Free: 800-554-3376

Transcript of Hearing January 05, 2018

	Sanuary 05, 2010
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2	INDIANA ELECTION COMMISSION
3	PUBLIC SESSION AGENDA
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7	Conducted on: January 5, 2018
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11	Conducted at: Indiana Governmental Center Indiana Election Division
12	302 West Washington Street E-204
13	Indianapolis, Indiana 46204
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23	A Stenographic Record By: Lisa C. Pierce
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		January 05, 2018	
1		APPEARANCES	2
2	TNDTANA	ELECTION COMMISSION:	
3	1110171111	Mr. Bryce Bennett - Chairman	
4		Ms. Brittany Solis - Proxy for Vice Chairman Mr. S. Anthony Long	
5		Mr. Zachary Klutz - Member Ms. Suzannah Overholt - Member	
6			
7	INDIANA	ELECTION DIVISION STAFF:	
8		Mr. J. Bradley King - Co-Director Ms. Angela M. Nussmeyer - Co-Director	
9		Mr. Dale Simmons - Co-Legal Counsel Mr. Matthew Kochevar - Co-Legal Counsel	
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- 1 CHAIRMAN BENNETT: This meeting of the Indiana
- 2 Election Commission is called to order. The
- 3 following members of the Commission are present:
- 4 Myself, Chairman Bryce Bennett; Brittany Solis,
- 5 Proxy for Vice Chairman Anthony Long; Member
- 6 Suzannah Overholt; and Member Zachary Klutz. The
- 7 Indiana Election Division staff are the Co --
- 8 Co-Directors Brad King and Angie Nussmeyer. The co
- 9 general counsels here are Matthew Kochevar and Dale
- 10 Simmons. The court reporter today is Lisa Pierce
- 11 with Connor Reporting.
- 12 And at this time I would ask for documentation
- 13 of compliance with the Open Door Laws and request
- 14 Mr. King and Ms. Nussmeyer to confirm that the
- 15 Commission Meeting has been properly noticed as
- 16 required under the Open Door Law.
- 17 MR. KING: Mr. Chairman, Members of the
- 18 Commission, notice of this meeting was posted in
- 19 compliance with the Open Door Law.
- 20 CHAIRMAN BENNETT: I recognize Mr. King and
- 21 Miss Nussmeyer to present the minutes from the
- 22 November 2nd, 2017 Commission Meeting.
- MR. KING: Mr. Chairman, Members of the
- 24 Commission, the minutes of the November 2nd, 2017
- 25 meeting were reviewed and submitted to you all by



1

- Co-Director Nussmeyer and myself. And we
- 2 respectfully recommend your approval.
- 3 CHAIRMAN BENNETT: Is there a motion to
- 4 approve the minutes as presented?
- 5 MR. KLUTZ: So moved.
- 6 CHAIRMAN BENNETT: Have a motion. Is there a
- 7 second?
- 8 MS. SOLIS: Second.
- 9 CHAIRMAN BENNETT: A motion and a second. Is
- 10 there any discussion? Hearing none, all in favor
- 11 say, "Aye."
- 12 THE COMMISSION: Aye.
- 13 CHAIRMAN BENNETT: Aye. All opposed say,
- 14 "Nay." The ayes have it and the motion to approve
- 15 the minutes is adopted. I will sign the minutes as
- 16 approved.
- 17 Like to call for ratification of Campaign
- 18 Finance Settlement Agreements presented by
- 19 Ms. Taylor and Ms. Thompson.
- 20 MS. THOMPSON: Mr. Chairman, Members of the
- 21 Commission, in your binder, under the Campaign
- 22 Finance Tab, there's a committee to ratify that has
- 23 agreed to pay the Settlement Agreement -- Agreement
- 24 and waive the hearing.
- 25 CHAIRMAN BENNETT: Is there a motion to ratify



1	this Settlement Agreement?	5
2	MR. KLUTZ: So moved.	
3	CHAIRMAN BENNETT: Motion.	
4	MS. OVERHOLT: Second.	
5	CHAIRMAN BENNETT: Motion and a second. Any	
6	discussion? Hearing none, all in favor say, "Aye."	
7	THE COMMISSION: Aye.	
8	CHAIRMAN BENNETT: Aye. All opposed say,	
9	"Nay." Ayes have it; motion is adopted.	
10	Everyone present who plans to testify	
11	regarding any matter coming before the Commission	
12	today, including campaign finance or voting system	
13	matters, please stand for the administration of the	
14	oath. And recognize Dale Simmons to administer the	
15	oath.	
16	MR. SIMMONS: Raise your right hand and say "I	
17	do" after administration of the oath.	
18	(After the administration of the oath,	
19	the following proceedings were had:)	
20	ALL TESTIFYING: I do.	
21	MR. SIMMONS: Thank you.	
22	CHAIRMAN BENNETT: Thank you. I would ask for	
23	presentations by Mr. King and Ms. Nussmeyer	
24	regarding the approval of the Dubois County	
25	Precinct Establishment Order.	



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- 1 MS. NUSSMEYER: Mr. Chairman, if I may. Clerk
- 2 Jarboe is here from Dubois County. And if I am --
- 3 I will briefly go over sort of what their request
- 4 was. And if I get anything factually incorrect,
- 5 you'll stop me, I'm sure. Patrick Becker, who is
- 6 my Director of Special Projects, is out this week
- 7 recuperating from oral surgery. And so I'm doing
- 8 my best to pitch in here.
- 9 So, as I understand, you had six precincts or
- 10 six precinct boundary changes that were submitted
- 11 to the office.
- 12 MR. JARBOE: Yes.
- MS. NUSSMEYER: And those six precinct
- 14 boundary changes were related to annexations. So
- 15 the City, I suppose, got a little bit -- little bit
- 16 larger. And so in order to accommodate those
- 17 precincts -- the City annexations, those precinct
- 18 boundaries were adjusted so that the County would
- 19 not have to split a precinct and create a situation
- 20 where you'd have a -- one ballot that -- for half
- 21 of the precinct that would be for the County and
- 22 the other half of the -- the precinct for the City.
- 23 As I understand, her commissioners are
- 24 supportive. She's informed both of her Demo -- the
- 25 Democratic and Republican Party Chairs at the



1	county about the precinct changes. And the County			
2	Chairs are supportive, as I understand. And that			
3	she did attempt publication of the notice in the			
4	newspaper.			
5	And, as I understand, the publisher encouraged			
6	you to publish after January 1st in order to get			
7	more eyeballs on the notice itself. And the			
8	unfortunate side of doing that meant that the			
9	ten-day public comment period expires on at noon			
10	January 12th, which we needed it to expire no later			
11	than noon January 9th.			
12	And so Clerk Jarboe is here to answer any			
13	questions that you all may have about the precinct			
14	order. And if anybody from the public is here to			
15	comment, they may certainly do so as well.			
16	MP KING. Mr Chairman IIII add both			

- MR. KING: Mr. Chairman, I'll add, both
- 17 Co-Director Nussmeyer and myself reviewed the
- 18 submission made by Dubois County in this matter,
- 19 following review by the Office of Census Data
- 20 Legislative Services, and found that it complied
- 21 with Indiana law. Your binders contain an order
- 22 signed by both of us attesting to that effect.
- 23 CHAIRMAN BENNETT: Very good. Thank you.
- 24 Clerk Jarboe, do you want to add anything at this
- 25 point?



- 8
- 1 MR. JARBOE: I do want to add -- and thank you
- 2 all, and thank you for having me this afternoon.
- 3 This -- this will honestly affect twenty voters,
- 4 fifteen active and five inactive, that are already
- 5 in a split precinct. The rest are -- is all
- 6 annexation of land at this time that would miss it.
- 7 The fifteen people that are currently active voters
- 8 are moving into the annexation's precinct, or where
- 9 they are now, so we can eliminate an extra ballot
- 10 style.
- 11 CHAIRMAN BENNETT: Very good. Thank you. Any
- 12 questions from the Commissioners?
- MS. OVERHOLT: Actually, well, just for
- 14 clarification. So by doing this today, if the
- 15 public comment period needed to end the 9th --
- MS. NUSSMEYER: Uh-huh.
- MS. OVERHOLT: -- which is Tuesday, right?
- 18 And today's the -- if we're acting today, we're
- 19 kind of -- aren't we cutting short the public
- 20 comment period?
- 21 MS. NUSSMEYER: Correct. So according to law
- 22 what should have happened is that public notice be
- 23 published in the newspaper to allow for a ten-day
- 24 public comment period.
- MS. OVERHOLT: Uh-huh.



- 1 MS. NUSSMEYER: And if no one from the public
- 2 would submit a comment to our office, then Brad and
- 3 I would sign a final order to send to the County.
- 4 By holding the hearing today, we're
- 5 essentially allowing the public to come to
- 6 Indianapolis and to submit their comment for us to
- 7 discuss here -- or for the Commission to discuss
- 8 today to determine whether or not there was any
- 9 sort of concern from the public as to whether or
- 10 not the precinct boundary changes should go into
- 11 effect.
- 12 So essentially what we are doing or what the
- 13 Commission would do, should they approve the
- 14 request, would be circumventing the public comment
- 15 period through a published legal notice.
- MS. OVERHOLT: And how was the public notified
- 17 of this meeting? How were the -- how were the
- 18 voters in Dubois County notified of this meeting?
- 19 MS. NUSSMEYER: Brad and I published notice of
- 20 the meeting within 48 hours, as required under
- 21 State law, for the Commission to hold this hearing.
- 22 And then I believe it's not just posted outside but
- 23 also on our Web site as well.
- MR. KING: I'll add it was posted
- 25 simultaneously on the Web site.



- 1 MS. OVERHOLT: But that's the only way the
- 2 voters would know though would be to come to the
- 3 Web site or to stand outside this --
- 4 MS. NUSSMEYER: Uh-huh.
- 5 MS. OVERHOLT: -- the door and --
- 6 MR. KING: That would be correct.
- 7 MS. OVERHOLT: And I take it no comment had
- 8 been received regarding this?
- 9 MR. KING: No.
- 10 MS. NUSSMEYER: Huh-uh.
- 11 CHAIRMAN BENNETT: Any other questions?
- 12 Hearing none, is there a motion to approve the
- 13 proposed Dubois County Precinct Establishment Order
- 14 as presented, Order Number 2018-1?
- 15 MR. KLUTZ: So moved.
- 16 CHAIRMAN BENNETT: Is there a second?
- 17 MS. SOLIS: Second.
- 18 CHAIRMAN BENNETT: The motion is seconded.
- 19 Any further discussion? Hearing none, all in favor
- 20 say, "Aye."
- 21 THE COMMISSION: Aye.
- 22 CHAIRMAN BENNETT: Aye. All opposed say,
- 23 "Nay." The ayes have it and the order is approved.
- 24 Thank you very much.
- MR. JARBOE: Thank you.



- 11
- 1 CHAIRMAN BENNETT: Now we have the approval of
- 2 the Posey County Precinct Establishment Order
- 3 2018-2. And I would ask for a presentation by
- 4 Mr. King and Ms. Nussmeyer.
- 5 MS. NUSSMEYER: Mr. Chairman and Members of
- 6 the Commission, Clerk Postletheweight from Posey
- 7 County is here this afternoon as well. And, again,
- 8 I will do my very best to try to be reflective of
- 9 what I understand to be true in Posey County. So
- 10 please correct me if I am wrong.
- I believe there are three precincts that are
- 12 having boundary impacts that were submitted to the
- 13 office. And as Brad mentioned with -- much like
- 14 Dubois County, we also reviewed those -- that
- 15 request and submitted it to the Office of Census
- 16 Data. Those boundary changes were reflective of
- 17 annexations, again, City annexations so that the
- 18 County could avoid having a split precinct where
- 19 part of the voters would have City offices and the
- 20 other half County offices, which can often lead to
- 21 confusion on election day with our poll workers.
- 22 As I understand, both County Party Chairs are
- 23 supportive. In fact, I spoke to the Posey County
- 24 Democratic Chair this morning on another matter.
- 25 And he was aware that Clerk Postletheweight was



- 12
- 1 coming up and was -- signaled his support for the
- 2 reprecincting effort in Posey County.
- 3 And, as I understand, you too published
- 4 notice, but it was on January 2nd.
- 5 MS. POSTLETHEWEIGHT: Yes.
- 6 MS. NUSSMEYER: So, again, there was legal
- 7 notice published in the newspaper on January 2nd.
- 8 But the public comment period would end on
- 9 January 12th. But I also believe to be true that
- 10 you published notice this summer --
- 11 MS. POSTLETHEWEIGHT: Yes.
- MS. NUSSMEYER: -- as well, at the start of
- 13 this project.
- 14 MS. POSTLETHEWEIGHT: Yes.
- MS. NUSSMEYER: So the -- the county was
- 16 notified a little early, if you will, that the
- 17 precinct changes were coming. But that was before
- 18 our office and the Office of Census Data had the
- 19 opportunity to review that request.
- 20 And so Posey County had two notices published.
- 21 Just the second one was the more important one, and
- that's the one that was published on January 2nd.
- 23 With that, Clerk Postletheweight, or if anyone else
- 24 has comment to add.
- MS. POSTLETHEWEIGHT: No. We sent -- we had



- 1 eight registered voters in that area. Two of them
- 2 are actually in that area now. So we don't have a
- 3 lot of voters in that area. This comes as an
- 4 annexation, like she said, from the City taking
- 5 from the County.
- I have an agreement where, when I spoke with
- 7 the Commissioners about it, that the Democrat
- 8 Election Board member and the Republican one were
- 9 both in agreement. I have from the Democrat
- 10 Chairman that he's full -- fully approved of it.
- 'Cause it's his -- it's his street that was -- was
- 12 -- was involved. He's fully supportive of it. So,
- 13 yeah, we don't -- we don't have any problems.
- And I'm sorry that we didn't get it in sooner.
- 15 But we got the notice. We have a newspaper that
- 16 publishes once a week. Had to be in by the 20th,
- 17 and I didn't make the deadline. You know, it's the
- 18 way it was. Got it in as soon as we could. So --
- 19 CHAIRMAN BENNETT: Okay. Thank you. Any --
- MS. POSTLETHEWEIGHT: Welcome.
- 21 CHAIRMAN BENNETT: -- questions from the
- 22 Commissioners?
- MR. KLUTZ: I -- is there a statutory deadline
- 24 that we're bumping up against that is requiring
- 25 this meeting?



- 14
- 1 MR. KING: Yes. Commissioner, the statutory
- 2 deadline is actually January 10th.
- 3 MR. KLUTZ: Okay.
- 4 MR. KING: Because that's the start of
- 5 candidate filing.
- 6 MR. KLUTZ: Okay.
- 7 MR. KING: And this year the Democratic Party
- 8 elects Precinct Committeemen. And both parties
- 9 choose State Convention Delegates that sometimes
- 10 have delegate districts based on precincts.
- 11 MR. KLUTZ: Okay. So that's why their --
- 12 their notices don't work.
- 13 MR. KING: That's correct.
- 14 MR. KLUTZ: Okay.
- 15 MS. OVERHOLT: I guess I'll just -- and I take
- 16 it there hasn't been any comment received by the
- 17 office.
- MS. NUSSMEYER: No. I'm not aware of any.
- 19 MR. KING: That's correct.
- 20 CHAIRMAN BENNETT: And you've told us about
- 21 the comments that you've received already.
- MS. POSTLETHEWEIGHT: It only affects -- we --
- 23 we notified each voter individually that it would
- 24 effect. And two of them responded that they are
- 25 still there. The rest of them we got no response



- 1 from. So I do not believe -- and I've checked the
- 2 rolls; they are no longer registered voters. So it
- 3 only affects two people unless some of these other
- 4 people have moved out and other people have moved
- 5 in. And they would accept it, I'm sure.
- 6 CHAIRMAN BENNETT: Okay. Any further
- 7 discussion?
- 8 MS. OVERHOLT: No.
- 9 CHAIRMAN BENNETT: Hearing none, is there a
- 10 motion?
- 11 MS. SOLIS: So moved.
- 12 CHAIRMAN BENNETT: This is a motion to approve
- 13 the Posey County Precinct Establishment Order as
- 14 presented, Order Number 2018-2; is that correct?
- 15 MS. SOLIS: Yes, sir.
- 16 CHAIRMAN BENNETT: Is there a second?
- 17 MR. KLUTZ: Second.
- 18 CHAIRMAN BENNETT: Motion and a second. Any
- 19 further discussion? Hearing none, all in favor
- 20 say, "Aye."
- 21 THE COMMISSION: Aye.
- 22 CHAIRMAN BENNETT: Aye. All opposed say,
- 23 "Nay." Ayes have it; motion carries; order is
- 24 approved. Thank you very much.
- 25 MS. POSTLETHEWEIGHT: Thank you. We



10	3andary 03, 2016	
1	appreciate it.	16
2	CHAIRMAN BENNETT: Is there a motion to	
3	authorize staff to affix Commission Member	
4	signatures on the Commission Orders approved today?	
5	MR. KLUTZ: So moved.	
6	CHAIRMAN BENNETT: Is there a second?	
7	MS. SOLIS: Second.	
8	CHAIRMAN BENNETT: Motion and a second. Any	
9	discussion? All in favor say, "Aye."	
10	THE COMMISSION: Aye.	
11	CHAIRMAN BENNETT: Aye. All opposed say,	
12	"Nay." The ayes have it; motion carried.	
13	The Election Commission has finished its	
14	business for today. Is there a motion for the	
15	Indiana Election Commission to adjourn?	
16	MS. SOLIS: I move that we move to	
17	adjournment, please.	
18	CHAIRMAN BENNETT: Is there a second?	
19	MR. KLUTZ: Second.	
20	CHAIRMAN BENNETT: The motion is seconded.	
21	Any any discussion? Hearing none, those in	
22	favor say, "Aye."	
23	THE COMMISSION: Aye.	
24	CHAIRMAN BENNETT: Aye. All opposed say,	
25	"Nay." Motion carried. We are adjourned. Thank	



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          (Time Noted: 3:18 p.m.)
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1	STATE OF INDIANA)
2) SS:
3	COUNTY OF HAMILTON)
4	
5	I, Lisa C. Pierce, a Notary Public in and for
6	the County of Hamilton, State of Indiana at large,
7	do hereby certify that the foregoing hearing was
8	taken on behalf of the Indiana Election Commission
9	at the Indiana Government Center, Indiana Election
10	Division, 302 West Washington Street, E-204,
11	Indianapolis, Marion County, Indiana, on
12	January 4, 2018, commencing at the hour of
13	3:00 p.m., pursuant to Rules of Applicable
14	Procedure;
15	That said hearing was taken down in
16	stenographic notes and afterwards reduced to
17	typewriting under my direction, and that the
18	typewritten transcript is a true record of the
19	testimony given by said participants;
20	That the parties were represented by their
21	aforementioned counsel.
22	I do further certify that I am a disinterested
23	person in this cause of action; that I am not a
24	relative or attorney of any party, or otherwise
25	interested in the event of this action, and am not



19	January 05, 2018
1	in the employ of the attorneys for any party.
2	IN WITNESS WHEREOF, I have hereunto set my
3	hand and affixed my notarial seal this day of
4	, 2018.
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8	Lisa C. Pierce
9	Losa C. Petice
10	NOTARY PUBLIC
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13	My Commission Expires: March 14, 2021
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15	County of Residence: Hamilton
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